

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 FS-01 ABF-01 TRSE-00 PER-01 L-03
DODE-00 OPR-02 /021 W
-----023139 161829Z /46
R 161636Z JAN 78
FM USMISSION USBERLIN
TO SECSTATE WASHDC 6037
AMEMBASSY BONN
INFO CINCUSARUER HEIDELBERG GER//AEAGA-C//

LIMITED OFFICIAL USE SECTION 1 OF 2 USBERLIN 0117

BONN FOR MIN-CON CROWLEY

DEPT FOR EUR/CE CHESTER

E.O. 11652: N/A
TAGS: AFSP, AINF, GW, WB
SUBJECT: INCOME AND FICA TAX LIABILITY OF US CITIZENS ON BERLIN
LOCAL NATIONAL (OCCUPATION COST BUDGET) PAYROLL

REF: (A) USCOB/USAB (AEBU-CS) LTR, DATED 12 OCT 77, SUBJECT:
INTERNAL REVENUE SERVICE (IRS) INQUIRY; (B) HQDA MSG,
DAPE-CPR, DTG 301818Z NOV 77, (C) SECDEF MSG, DC/GC,
DTG 130023Z JAN 78

1. REF A REPORTED BERLIN COMMAND'S CONCERN WITH THEORY OF IRS
ATTACHE IN BONN, MR. WALLACE SPENCER, THAT THE US GOVERNMENT,
RATHER THAN THE BERLIN SENAT, IS THE ACTUAL EMPLOYER OF LOCAL
NATIONAL (LN) EMPLOYEES IN BERLIN, AND AS SUCH US GOVERNMENT
IS RESPONSIBLE TO INSURE THAT US CITIZENS IN LN POSITION PAY
U.S. INCOME TAX FROM THEIR LN WAGES. REF B STATED
THAT THE OFFICE OF GENERAL COUNSEL, OSD HAD CONFIRMATION THAT
TREASURY HAD INSTRUCTED IRS TO CEASE ANY COLLECTION ACTION ON
INCOME TAX AND FICA LIABILITY OF US CITIZENS IN THE FRG AND
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BERLIN, AND THAT NO COLLECTION ACTION WOULD BE PURSUED BEFORE
CONCLUSION OF DISCUSSIONS BETWEEN TREASURY, STATE AND
DOD REPRESENTATIVES.

2. SPENCER HAS BEEN IN BERLIN (DURING THE PERIOD OF
9-17 JANUARY, 1978) TO ATTEND A USAFE TAX CONFERENCE AND
PERFORM AUDITS OF INDIVIDUAL TAXPAYERS. WHEN QUESTIONED

CONCERNING THE TAX LIABILITY OF US CITIZEN DEPENDENTS
IN LOCAL NATIONAL POSITIONS, SPENCER TOLD THE TAX
CONFEREES THAT THESE INDIVIDUALS ARE US GOVERNMENT EM-
PLOYEES AND ARE RESPONSIBLE FOR DECLARING THEIR SALARIES
AS US GROSS INCOME WITHOUT THE BENEFIT OF SECTION 911
OF THE IRS CODE (FOREIGN INCOME EXEMPTIONS).

3. WE ARE ADVISED ALSO THAT SPENCER HAS AUDITED A
US CITIZEN LN POSITION HOSPITAL EMPLOYEE AND INFORMED
HER THAT SHE IS A US GOVERNMENT EMPLOYEE AND THAT TAXES
AND SOCIAL SECURITY AMOUNTS WHICH SHE HAS PAID TO THE
FEDERAL REPUBLIC OF GERMANY OUGHT TO HAVE BEEN PAID TO
THE USG. SHE WAS ADVISED THAT HER TAX LIABILITY FOR
YEARS 1972 THRU 1977 HAS BEEN COMPUTED TO BE WELL OVER
\$3,000.

4. USBER HAS JUST BEEN ADVISED BY DEPUTY STAFF JUDGE
ADVOCATE IN BERLIN OF DETAILS OF RECENT CONVERSATION BE-
TWEEN HIM AND SPENCER. SPENCER HAS STATED THAT HE AND
ANY OTHER IRS AGENTS WHO MAY DISCUSS TERMS OF TAX LIAB-
ILITY WITH TAXPAYERS IN GERMANY WILL ADVISE SUCH US CITI-
ZEN LN EMPLOYEES THAT THEY ARE US GOVERNMENT EMPLOYEES.
WHEN QUERIED BY JAG REPRESENTATIVE, SPENCER REPLIED THAT
THIS WAS NOT HIS PERSONAL CONCLUSION BUT INDEED REFLECTED
THE POSITION OF THE INTERNAL REVENUE SERVICE. SPENCER
INDICATED THAT WHILE DISCUSSIONS ARE CONTINUING IN WASH-
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INGTON ON THE MATTER, THE IRS HAS REACHED THE DECISION
THAT THE USG IS THE EMPLOYER OF SUCH LN PERSONNEL AND
THAT THE IRS TAX AGENTS ARE PROCEEDING ON THAT THESIS.

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INFO OCT-01 ISO-00 FS-01 ABF-01 L-03 TRSE-00 DODE-00
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TO SECSTATE WASHDC 6038
AMEMBASSY BONN
INFO CINCUSAREUR HEIDELBERG GER//AEAGA-C//

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BONN FOR MIN-CON CROWLEY

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5. SUCH ACTIONS BY IRS AGENTS WILL SET IN MOTION THE POLITICAL PROBLEMS WHICH EMBASSY BONN HAS RAISED WITH THE DEPARTMENT. IN ADDITION, HOWEVER, THESE ACTIONS PLACE INDIVIDUAL LN POSITION TAXPAYERS IN MOST DIFFICULT CIRCUMSTANCES. USBER UNDERSTANDS THAT THE ARMY INTENDS TO CONTINUE TO ADVISE SUCH INDIVIDUALS THAT THEY ARE NOT REPEAT NOT USG EMPLOYEES. ACCORDINGLY, SUCH INDIVIDUALS WILL ON THE ONE HAND RECEIVE (AS AT LEAST ONE ALREADY HAS FROM SPENCER) INSTRUCTIONS TO PAY TAXES (INCLUDING BACK TAXES) TO THE USG WHILE AT THE SAME TIME THE MILITARY LEGAL ASSISTANCE OFFICES WILL ADVISE TO THE CONTRARY. (WE UNDERSTAND THAT SPENCER HAS ADVISED THE LN HOSPITAL WORKERS THAT SHE WILL RECEIVE NO REPEAT NO CREDIT FOR TAXES SHE PAID TO THE FRG SINCE AS USG EMPLOYEE SHE WAS UNDER NO REPEAT NO OBLIGATION TO PAY TAXES TO FRG).

6. IT IS OUR UNDERSTANDING THROUGH INFORMATION THAT HAS BEEN CONVEYED THROUGH MILITARY CHANNELS THAT THE IRS LIMITED OFFICIAL USE

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HAD NOT REPEAT NOT REACHED A FINAL DECISION TO BE IMPLEMENTED BY ITS TAX AGENTS, AND THAT THE MATTER IS STILL UNDER DISCUSSION BETWEEN INTERESTED PARTIES IN WASHINGTON. PLEASE ADVISE WHETHER THIS UNDERSTANDING IS CORRECT. IF THIS UNDERSTANDING IS CORRECT, WE STRONGLY URGE THAT SPENCER AND HIS FELLOW TAX AGENTS BE INSTRUCTED NOT REPEAT NOT TO ADVISE CONFEREES OR INDIVIDUAL TAXPAYERS AS THEY HAVE SO FAR BEEN ADVISED BY SPENCER, AND THAT SPENCER AND OTHER TAX AGENTS BE INSTRUCTED NOT REPEAT NOT TO AUDIT INDIVIDUAL TAXPAYERS WHO ARE IN LN POSITIONS AS IF THEY WERE USG EMPLOYEES.

7. USCOB CONCURS. GEORGE

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